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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 STEVIE J SMITH,

1:09-cv-00711 MJS HC

12 Petitioner,

ORDER TRANSFERRING CASE TO THE
UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF
CALIFORNIA

13 vs.

14 AYERS,

15 Respondent.
16 _____ /
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18 Petitioner, a state prisoner proceeding pro se, has filed a habeas corpus action pursuant to 28
19 U.S.C. § 2254.

20 The federal venue statute requires that a civil action, other than one based on diversity
21 jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants
22 reside in the same state, (2) a judicial district in which a substantial part of the events or omissions
23 giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is
24 situated, or (3) a judicial district in which any defendant may be found, if there is no district in which
25 the action may otherwise be brought." 28 U.S.C. § 1391(b).

26 Venue for a habeas action is proper in either the district of confinement or the district of
27 conviction. 28 U.S.C. § 2241(d). The district court for the district wherein such an application is filed
28 in the exercise of its discretion and in furtherance of justice may transfer the application to the other

1 district court for hearing and determination. Id.

2 It is preferable for petitions challenging a conviction or sentence to be heard in the district of
3 conviction while petitions challenging the manner in which the sentence is being executed be heard in
4 the district of confinement. Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989). In this case, the
5 petitioner is challenging a conviction from San Bernardino County, which is in the Central District of
6 California. See 28 U.S.C. § 84(b). Therefore, the petition should have been filed in the United States
7 District Court for the Central District of California. In the interest of justice, the petition will be
8 transferred to the United States District Court for the Central District of California. 28 U.S.C. §§ 1404(a)
9 and 2241(d).

10 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the United States
11 District Court for the Central District of California.

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13 IT IS SO ORDERED.

14 **Dated:** April 28, 2010

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE